And regardless of the incontestable clause, where the defense is that the insurance was taken with preconceived intent to commit suicide, such defense will be allowed. *Parker* v. *Des Moines Life Ass'n.*, 108 Iowa 117, 78 N. W. 826; *Smith* v. *Natural Ben. Soc.*, 51 Hun. 575, 4 N. Y. Supp. 521.

For Virginia law on the subject, see Va. Code, 1919, § 4228, repealed and superseded by Acts 1918, p. 539.

INTOXICATING LIQUORS—EFFECT OF EIGHTEENTH AMENDMENT UPON EXISTING STATE LAWS.—The defendant was arrested for alleged violation of State prohibition laws. The act, which occurred on January 21, 1920, constituted a violation of the State prohibition law, but was not an offense under the Eighteenth Amendment to the United States Constitution and the act of Congress carrying the Amendment into effect. The defendant sought release by writ of habeas corpus on the ground that the Eighteenth Amendment and legislation by Congress giving it effect (the "Volstead Act") superseded and abrogated all State laws on the subject covered by the Eighteenth Amendment. *Held*, the writ of habeas corpus was denied. *Jones* v. *Hicks* (Ga.), 104 S. E. 771.

The recent origin of the question presented in the instant case makes the soundness of the decision rest upon principle and analogy rather than upon the authority of decided cases. Undoubtedly the general rule is that where a State and a federal statute operate upon the same subject matter, if the federal statute is one which Congress had power to enact, the State statute must yield to the federal statute. *Gulf, etc., R. Co.* v. *Hefley*, 158 U. S. 98; *Columbia Wire Co.* v. *Freeman Wire Co.*, 71 Fed. 302; see also *State* v. *Hanson*, 16 N. D. 347, 113 N. W. 371.

The Eighteenth Amendment, of its own force, invalidates any State law which sanctions or authorizes what it prohibits. *State of Rhode Island* v. *Palmer*, 40 Sup. Ct. 486. Thus, any State licensing law, in so far as it permits the sale of liquor for beverage purposes, is rendered inoperative. See *Commonwealth* v. *Nickerson* (Mass.), 128 N. E. 273. But the federal statute (the "Volstead Act") takes precedence over State liquor tax laws only where the two conflict. Where no conflict exists, the State law continues in full force. *People* v. *Foley*, 184 N. Y. Supp. 270; *Ex parte Guerra* (Vt.), 110 Atl. 224.

In the case of income tax laws, the Sixteenth Amendment to the United States Constitution and legislation pursuant thereto do not seem to have deprived the several States of the power to levy and collect taxes upon incomes. *Shaffer* v. *Carter*, 252 U. S. 37; *Travis* v. *Yale & Towne Mfg. Co.*, 252 U. S. 60.

The War Time Prohibition Act was not repealed by implication upon adoption of the Eighteenth Amendment, but continued in full force. *Hamilton* v. *Kentucky, etc., Co.*, 251 U. S. 146, 163; *Hannah and Hogg* v. *Cline*, 263 Fed. 599; *United States* v. *Minery*, 259 Fed. 707.

A State constitutional amendment, prohibiting the sale, manufacture, or keeping of liquor, does not repeal existing State laws for the suppression of the sale of liquor. *State* v. *Dorr*, 82 Mo. 212, 19 Atl. 171. Nor does such an amendment, prohibiting the sale of liquor except for certain specified pur-

poses, deprive the State legislature of the power to enact laws prohibiting the sale of liquor for any purpose whatsoever. *State* v. *Weiss,* 84 Kan. 165, 113 Pac. 388, 36 L. R. A. (N. S.) 73. See also *State* v. *Kane,* 15 R. I. 395, 6 Atl. 783.

REAL PROPERTY—MINES AND MINERALS—OIL.—A remote grantor conveyed certain lands to plaintiff's ancestor, reserving a one-half interest "in all minerals in, on, or under the land". Plaintiff's ancestor conveyed to defendant's grantor "one-half of all the minerals, metals, and mineral substances of every kind and character". Subsequently oil was discovered under the land. The plaintiff claims as heir at law of her ancestor one-half interest in the oil; defendant claims through the reservation of the remote grantor and the deed of the plaintiff's ancestor. *Held,* the plaintiff cannot recover. *Lovelace* v. *Southwestern Petroleum Co.,* 267 Fed. 504, 513.

The instant case turned absolutely on whether or not oil and gas were included in the term minerals. An English case defined minerals as "all fossil bodies or matters dug out of mines". *Earl of Rosee* v. *Wainman,* 14 M. & W. 859. But as the knowledge of geology and minerals has increased, the definition has been greatly modified, and a later English case defines the term as being "every substance which can be got from underneath the surface of the earth for the purpose of profit". *Hext* v. *Gill,* L. R. 7 Ch. App. 699, 712. Perhaps the best modern definition, accepted both in England and America, is the one found in the Century Dictionary, which defines a mineral to be "any constituent of the earth's crust; more specifically, an inorganic body occurring in nature, homogeneous and having a definite chemical composition which can be expressed by a chemical formula, and further having certain distinguishing physical characteristics". See also "Mineral", 5 WORDS AND PHRASES 4513.

Petroleum would undoubtedly be classed as a mineral under this last definition and practically all the cases so hold. *Bell* v. *People,* 237 Ill. 332, 86 N. E. 593, 19 L. R. A. (N. S.) 746, 15 Ann. Cas. 511. But because of its fugitive and transient nature, somewhat different rules apply to it than to other minerals. Yet it has been held generally that oil while in the earth is a part of the realty. *Isom* v. *Rex Crude Oil Co.,* 147 Cal. 659, 82 Pac. 317; *Kelley* v. *Ohio Oil Co.,* 57 Ohio St. 317, 49 N. E. 399, 39 L. R. A. 765, 63 Am. St. Rep. 721.

However, the Pennsylvania court has held that a conveyance containing a reservation of "all minerals" does not include the right to petroleum. *Dunham* v. *Kirkpatrick,* 101 Pa. St. 36, 47 Am. Rep. 696. This view has been upheld by later decisions of the same State, and a recent decision has also included natural gas with petroleum as not being included under the term mineral. *Preston* v. *South Penn. Oil Co.,* 238 Pa. 301, 86 Atl. 203. An Ohio case holds that in the absence of other evidence, the presumption is that oil and gas are not included under this term. *Detlor* v. *Holland,* 57 Ohio St. 492, 49 N. E. 690, 40 L. R. A. 266. A Kentucky case has held exactly the same thing. *McKinney* v. *Central Kentucky Gas Co.,* 134 Ky. 239, 120 S. W. 314,